

## **MARKEY INTRODUCES ELECTRICITY RESTRUCTURING LEGISLATION; BILL ADDRESSES UTILITY MERGERS, MARKET POWER, PUHCA REFORM**

WASHINGTON, DC -- Representative Edward J. Markey (D-MA), today introduced legislation aimed at promoting competition in the electric utility industry. The bill links repeal of requirements of the Public Utility Holding Company Act (PUHCA), which regulates the activities of multistate electric utility holding companies, to state action to introduce full retail competition in electricity generation. In addition, the Markey bill promotes the development of a competitive electricity market by enhancing the powers of the Federal Energy Regulatory Commission and state utility regulators to oversee utility mergers that might impede competition and protect against anticompetitive practices by electric utilities.

"Electricity restructuring legislation at the federal or state level should be aimed at de-monopolizing the electric power industry, not simply deregulating it," said Rep. Markey, who sits on the House Commerce Committee's Subcommittee on Energy and Power and formerly served as the Chairman of the House Energy and Commerce's Subcommittee on Energy Conservation and Power. He explained, "There is now no reason why electricity generation should remain a monopoly business, and no reason why consumers should not be free to choose their power supplier, just as they now can choose between rival phone companies.

Rep. Markey added, "But restructuring also means Congress will have to enact some new rules that assure the benefits of competition -- lower prices and consumer choice -- are not effectively undermined by anticompetitive practices by 'recovering' utility monopolists who fall off the competition wagon."

Earlier this year, Rep. Markey introduced H.R. 2929, the "Electric Power Competition Act of 1996" to advance the goal of electric utility demonopolization. That bill linked repeal of the mandatory power purchase provisions of PURPA to state action to open up full retail competition. This would be achieved either through utility divestiture of power plants or by state approval of a so-called retail "wheeling" plans that would allow consumers to buy power from competing generating companies that would be granted non-discriminatory access to utility power lines. In order to preserve environmentally sound renewable energy sources, energy conservation programs, and low-income consumer protections, H.R. 2929 also requires the states to certify they have met certain minimum standards in each of these areas in order to qualify for relief from PURPA. Finally, to promote a fully competitive marketplace, certain exemptions which electric utilities currently enjoy from the federal anti-trust laws would be repealed.

The legislation Rep. Markey is introducing today, the "Electric Power Competition and Consumer Choice Act of 1996" is a companion bill to H.R. 2929. The bill is aimed at addressing the risks that electric utility mergers, utility market power, or utility diversification into new lines of business might harm electricity consumers or undermine the emergence of a fully competitive electricity generation market. Specifically, the legislation Rep. Markey is introducing would: require each state to initiate a retail competition rulemaking proceeding pursuant to certain federal standards; repeal PUHCA for those electric utility holding companies whose service territories have been opened up to full retail competition and met minimum standards for renewables, efficiency, and low-income consumer protections; give FERC and the states enhanced authority to regulate utility mergers and acquisitions to protect consumers from transactions that are inconsistent with effective competition in electricity markets or would increase electricity prices; give FERC and the states authority to regulate utility market power to guard against anticompetitive practices; grant FERC and the states authority over electric utility interaffiliate transactions to guard against cross-subsidization or self-dealing; direct FERC to establish regional transmission markets to assure functionally efficient and nondiscriminatory

transmission and prevent "pancaking" of rates; and, assure FERC and state regulators have full access to electric utility books and records.

Rep. Markey concluded, "Comprehensive electricity restructuring legislation must address each of these potential threats to the development of a competitive electric generation market."

Copies of the "Electric Power Competition and Consumer Choice Act of 1996" and Rep. Markey's full introduction statement for the bill can be obtained from Rep. Markey's office.

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## **INTRODUCTION OF THE "ELECTRIC POWER COMPETITION AND CONSUMER CHOICE ACT OF 1996" STATEMENT OF REPRESENTATIVE EDWARD J. MARKEY (D-MA) THURSDAY, JULY 11, 1996**

Mr. Speaker, today I am introducing legislation aimed at promoting competition in the electric utility industry. This legislation seeks to create federal incentives for removal of existing state-level barriers to full competition and consumer choice in electricity generation.

Today, the generation, transmission, and distribution of electricity remains largely a monopoly enterprise. The monopoly nature of this industry has, in turn, necessitated a very strict system of federal and state utility regulation aimed at protecting captive utility ratepayers from potential overcharges, abuses and conflicts-of-interest. Today, however, we are now at a crossroads. We now have an historic opportunity to bring full competition to the business of electricity generation. The transition to such a competitive market, however, will require both federal and state action.

Electricity restructuring legislation at the federal or state level should be aimed at de-monopolizing the electric power industry, not simply deregulating it. There is now no reason why electricity generation should remain a monopoly business, and no reason why consumers should not be free to choose their power supplier, just as they now can choose between rival phone companies. Our objective must be to create a competitive marketplace where many sellers and many buyers can come together. In some cases, this may mean getting rid of old utility regulations that no longer are needed because their purpose can now be achieved through reliance on market forces. In other cases, it may mean preserving existing rules where necessary to respond to those aspects of the industry which remain a monopoly (such as distribution of electricity over local power lines). But restructuring also means Congress will have to enact some new rules that assure the benefits of competition -- lower prices and consumer choice -- are not effectively undermined by anticompetitive practices by "recovering" utility monopolists who fall off the competition wagon.

Earlier this year, I introduced H.R. 2929, the "Electric Power Competition Act of 1996" to advance the goal of electric utility demonopolization. That bill linked repeal of the mandatory power purchase provisions of PURPA to state action to open up full retail competition. This would be achieved either through utility divestiture of power plants or by state approval of a so-called retail "wheeling" plans that would allow consumers to buy power from competing generating companies that would be granted non-discriminatory access to utility power lines. In order to preserve environmentally sound renewable energy sources, energy conservation programs, and low-income consumer protections, H.R. 2929 also

requires the states to certify they have met certain minimum standards in each of these areas in order to qualify for relief from PURPA. Finally, to promote a fully competitive marketplace, certain exemptions which electric utilities currently enjoy from the federal anti-trust laws would be repealed.

At the time I introduced H.R. 2929 and in subsequent hearings before the Energy and Power Subcommittee that in addition to these reforms, I noted that electric utility restructuring legislation also must also address the risks that electric utility mergers, utility market power, or utility diversification into new lines of business might harm electricity consumers or undermine the emergence of a fully competitive electricity generation market. The legislation I am introducing today addresses each of these critical areas and should be viewed as the companion bill to H.R. 2929. The bill: requires each state to initiate a retail competition rulemaking proceeding pursuant to certain federal standards; repeals PUHCA for those electric utility holding companies whose service territories have been opened up to full retail competition and met minimum standards for renewables, efficiency, and low-income consumer protections; gives FERC and the states enhanced authority to oversee mergers and acquisitions to protect consumers from transactions that are inconsistent with effective competition in electricity markets or would increase electricity prices; gives FERC and the states authority to regulate utility market power to guard against anticompetitive practices; grants FERC and the states authority over electric utility interaffiliate transactions to guard against cross-subsidization or self-dealing; directs FERC to establish regional transmission markets to assure functionally efficient and nondiscriminatory transmission and prevent "pancaking" of rates; and, assures FERC and state regulators have full access to electric utility books and records.

It is important to keep in mind that Congress enacted PUHCA sixty years ago in response to the myriad of anti-consumer abuses that occurred during the initial growth of the electric utility industry. These abuses included the creation of complex utility holding companies not readily susceptible to effective state regulation, cross-subsidization, self-dealing, and other abuses, and blatantly anti-competitive practices and activities. While much has changed in the electric power business since PUHCA was enacted in 1935, even in a restructured electricity industry, Congress must be concerned about the potential for a recurrence of such abuses. For example, utilities who control generation, transmission, and distribution assets might still engage in self-dealing transactions among their affiliates, cross-subsidize unregulated business ventures at the expense of the captive consumers in their monopoly transmission or distribution businesses, or exploit their substantial market power to impede the growth of effective competition. Moreover, the accelerating pace of utility mergers threatens to create giant "mega-utilities" that could dominate regional electricity markets and effectively bar other entrants from vying for customers.

Comprehensive electricity restructuring legislation must address each of these potential threats to the development of a competitive electric generation market. I intend for the reform proposals contained in this legislation to be considered as part of any comprehensive electricity legislation that moves through the Commerce Committee, and I look forward to working with my colleagues on a bipartisan basis to secure their enactment into law.

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